

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested. Claims 1-20 and 23-25 are pending and under examination. Claims 1, 12, and 20 have been amended without prejudice or admission. Claim 9 has been cancelled. Upon entry of the present amendment, claims 1-8, 10-20, and 23-25 will be under examination.

I. Status of the Claims and Amendments

Claim 1 has been amended to call for a solvent selected from the following group of solvents: ketones containing 3-10 carbon atoms, aliphatic alcohols containing 1-12 carbon atoms, aliphatic esters, ethers, cyclic ethers, hydrocarbons of 5-15 carbon atoms, mixture of hydrocarbons, aromatic hydrocarbons, petrol, kerosene, chlorinated hydrocarbons, dimethylformamide, dimethyl acetamide and dimethyl sulfoxide. Support for the amendment is found in the specification at, *e.g.*, page 3, lines 5-11, and in Examples 1-5. Consequently, claim 9 has been cancelled and claim 12 has been amended to depend from claim 1.

Claim 20 has been amended to delete recitation of "wherein the comonomer is not HDPE." Support for this amendment may be found at page 4, lines 17-25 and in original claim 20.

It is believed that the present amendments are in compliance with 37 C.F.R. § 1.116 since no new claims have been added, no new searching is believed to be necessitated by the amendments, and the present amendments are believed to place the claims in condition for allowance. No new matter is added by way of these amendments.

II. Rejections Under 35 U.S.C. §112, First Paragraph

Claim 20 stands rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. The Examiner states that HDPE is not a monomer and that there is nothing in the specification that would support HDPE as a

negative claim limitation. In response, without conceding the validity of the rejection, claim 20 has been amended to delete recitation of "wherein the comonomer is not HDPE." Support for this amendment may be found at page 4, lines 17-25 and in original claim 20. Thus, the basis of the rejection is believed to have been obviated. Applicants therefore respectfully request that the rejection be withdrawn.

III. Rejections Under 35 U.S.C. §102(b)

The Examiner has rejected claims 1-2, 4-19, and 23-25 under 35 U.S.C. §102(b) as allegedly being anticipated by Marinaccio (U.S. Patent No. 3,637,634, GB 1,202,835).

In response, and without conceding the Examiner's position or the validity of the rejection, claim 1 has been amended to call for:

dissolving the nucleating agent in a solvent selected from the group consisting of ketones containing 3-10 carbon atoms, aliphatic alcohols containing 1-12 carbon atoms, aliphatic esters, ethers, cyclic ethers, hydrocarbons of 5-15 carbon atoms, mixture of hydrocarbons, aromatic hydrocarbons, petrol, kerosene, chlorinated hydrocarbons, dimethylformamide, dimethyl acetamide and dimethyl sulfoxide...

At the outset, it is noted that the solvents called for in claim 1 do not include water. Support for the amendment to claim 1 is found throughout the specification *e.g.*, at page 3, lines 5-11, and in Examples 1-5. It is noted that the use of water as a solvent is given as a "comparative Example" for contrasting the inventive process. (*See* Example 6 and Table 1).

Anticipation requires that each and every element of the rejected claim(s) be disclosed in a single prior art reference. Marinaccio does not anticipate the pending claims. The pending claims are directed to methods using solvents that do not include water.

In contrast to the pending claims, in the Marinaccio process, *the solvent is always water* and the precipitant is either alkanol, ketone, glycerol, or aldehyde. Thus, Marinaccio does not anticipate the pending claims. Moreover, Marinaccio states that water is a required solvent. *See* Marinaccio, col. 3, lines 65-67:

In the process of this invention, water is required as the solvent for the nucleating agent and an oxygenated organic compound such as an alcohol as the non-solvent. (emphasis added).

Reconsideration of claims 1-2, 4-19, and 23-25 and withdrawal of the rejections of these claims under 35 U.S.C. § 102(b) is requested.

IV. Rejections Under 35 U.S.C. §103(a)

The Examiner has maintained the rejections of claim 20 under 35 U.S.C. 103(a) as allegedly being obvious over Marinaccio (U.S. Patent No. 3,637,634/ GB 1,202,835) in view of Lindahl et al. (U.S. Patent No. 6,809,154) and claim 3 as allegedly being obvious over Marinaccio in view of Thompson et al. (U.S. Patent No. 4,178,421).

In response and without conceding the validity of the rejections, the claims have been amended to call for methods using solvents that do not include water. As discussed in detail above, the methods disclosed in Marinaccio require the use of water as a solvent. Accordingly, Marinaccio does not disclose or suggest the instant claims. Nor do either of Lindahl or Thompson cure the deficiency of Marinaccio. The Examiner cites Lindahl only for teaching compositions with linear polypropylene or HDPE (0.1-10 wt % comonomer) having a weight average molecular weight of 50,000-500,000 that are nucleated with sodium benzoate. The Examiner cites Thompson solely for teaching that the concentration of sodium benzoate solution depends on its temperature. Neither Lindahl nor Thompson include any suggestion to substitute the water used as a solvent in Marinaccio with any other solvent to arrive at the methods of the instant claims.

Thus, none of Marinaccio, Lindahl or Thompson, either separately or together, render the pending claims obvious.

Reconsideration of claims 3 and 20 and withdrawal of all of the rejections under 35 U.S.C. § 103(a) is requested.

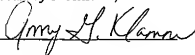
CONCLUSION

Applicants respectfully submit that the amendments and remarks presented here overcome and/or obviate each basis for objection and rejection set forth in the Office Action. The specification and pending claims, as amended, are all believed to be in immediate condition for allowance. Accordingly, the withdrawal of all objections and rejections is respectfully requested. An allowance is earnestly sought.

If there are any other issues remaining, which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: February 28, 2007

Respectfully submitted,

By 

Amy G. Klann

Registration No.: 48,155

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant